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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: James M. Hogle, Harmon J. Zuccola, David Filman and Carl Elkin
Application No.: 09/347,175 Group: 1645
Filed: July 1, 1999 Examiner: Robert A. Zeman
For: OLIGOMERIZATION OF HEPATITIS DELTA ANTIGEN

CERTIFICATE OF MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Assistant Commissioner for Patents, P.O. Box 2327, Arlington, VA 22202	
on 10-16-02	<u>Judy Breen</u>
Date	Signature
<u>Judy Breen</u>	
Typed or printed name of person signing certificate	

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OCT 22 2002

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REQUEST FOR RECONSIDERATION AND REQUEST TO
WITHDRAW THE FINAL OFFICE ACTION

Assistant Commissioner for Patents
P.O. Box 2327
Arlington, VA 22202

Sir:

This Request is being filed in response to the Advisory Action dated August 27, 2002.
This Request is made under 37 C.F.R. 1.181(c).

The Advisory Action states that the USPTO has misplaced the Petition filed under 37 C.F.R. 1.144 on July 19, 2002. Enclosed herewith is a photocopy of the Petition together with the postcard receipt. In view of the advanced stage of prosecution of this case and the fact that the only issue outstanding is that to be decided in the Petition, expeditious review is requested.

The Advisory Action further states that all rejections have been withdrawn and that all examiner claims are allowable. Yet, the Advisory Action does not withdraw the final rejection.


The action requires further action by the Applicant which includes only: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal; or (3) a timely filed RCE. It is respectfully submitted that this requirement is improper.

Since all of the rejections of record have been withdrawn, the final rejection should also have been withdrawn. See MPEP 706.07(e), third paragraph and 706.07(f)(N). MPEP 809.02(e) states that when an application is otherwise ready for issue, but for withdrawn claims, the office is to give Applicants thirty days to take appropriate action, including the filing of a petition under 37 C.F.R. 1.144. Applicants have already filed such a petition. Applicants should not be required to submit additional papers, or incur the costs of additional extension fees or filing fees, during the time the USPTO considers the petition. Instead, the Office should mail either a Quayle action or a miscellaneous letter stating that the finality of the office action has been withdrawn and that the PTO will attend to the petition.

No fees or extensions of time are required for this filing this Request.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 
Carolyn S. Elmore
Registration No. 37,567
Telephone: (978) 341-0036
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Concord, MA 01742-9133

Dated: 10/15/02



COPY

Initials: CSE/jwb

Docket No.: 0725.1056-001

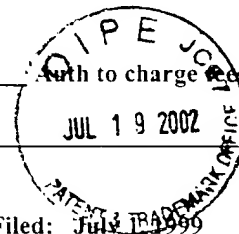
Date: 7/15/02

This is to acknowledge receipt of the following documents each filed under Certificate of Mailing Procedure 37 C.F.R. 1.8:

☒ Amendment Fee Letter w/copy
☐ AMENDMENT
☒ AMENDMENT AFTER FINAL ACTION
☒ Marked Up Version of Amendments (i)
☐ Check for \$ _____
☐ REPLY TO OFFICE ACTION
☒ Other Petition Under 37 C.F.R. 1.144

☐ Pet Ext Time w/copy

☐ Auth to charge fees



Applicant(s): James M. Hogle *et al.*

Application No.: 09/347,175

Filed: July 1, 1999

Title: Oligomerization of Hepatitis Delta Antigen

Date received by the PTO:

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